

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

SUMMARY

Affordability Real Estate Law and Mortgages

May 14, 2012

10:00 A.M.

House Room D

I. Welcome and call to order:

- **Delegate Danny Marshall, Chair**, called the meeting to order at 10:07 a.m.

II. Hotel/Motel Extended Stay (SB 35, 2012, M. Locke)

- **Mr. Chip Dicks**, stated that where a person lives in a dwelling unit, the tenant's landlord may dispossess a person who has failed to pay rent by changing the lock, so long as the landlord does not breach the peace. However, where a person is living in a hotel or motel, the hotelier is not able to do the same.
 - **Mr. Dicks** explained that he and Christie Marra discussed what to do regarding housing held out for transients. Under VRLT, if a person stays in an apartment, hotel room, or motel room for more than 30 days, the unit becomes a "dwelling unit." He explained that VHC recommended that this 30 day period be deleted from VRLT to avoid hoteliers from moving persons staying with them from room to room to avoid becoming a landlord in accordance with VRLT. Additionally, Mr. Dicks indicated concern that "slumlords" might call their housing "motels" instead of "apartments" to similarly avoid this designation. Mr. Dicks stated that the main issue is whether the 30 day requirement is still relevant.
- **Mr. Mark Flynn**; stated that there are inevitably zoning implications for local governments. Where a motel or hotel starts to function as a boarding house, this constitutes a changed use under the zoning regulations. Additionally, boarding houses may not be permitted in all the areas where the motels and hotels are located. Accordingly, where a hotel or motel becomes a boarding house in an area where zoning prohibits this, the extended stay use is illegal.
- **Ms. Christie Marra, Virginia Poverty Law Center**; explained that Lucinda Jones (who was on the agenda to speak) could not attend the workgroup meeting because of car problems. Ms. Marra explained that persons living in extended stay

motels and hotels have been treated as tenants under the law for many years. She further explained that there are two distinct groups of extended stay hotels and motels that could be treated differently: extended stay facilities that cater to the business community, and extended state facilities that cater to individuals who rent by the week or the month who may live there for years. Ms. Marra explained that persons living in this second group of extended stay facilities do so as a last resort. In fact, approximately 6% of people that were added to the homeless count in Virginia last year came directly from hotels motels. Part of the reason is that this second group of extended stay facilities does not require criminal background checks, while many traditional landlords do. Additionally, these facilities are important because there is a general lack of low-income housing.

- **Del. Danny Marshall**, asked whether people move into these extended stay facilities initially announcing their intention to stay for months or years.
- **Ms. Marra**, replied that it depends on the billing structure of the facility whether the company knows the intended extent of an individual's stay at that facility.
- **Mr. Tom Lisk, Counsel to Virginia Motel and Lodging Association**; stated that there are several concerns regarding hoteliers landlords with dwelling units. Mr. Lisk stated that he does not believe that hoteliers should be held to the same standards as landlords, because the relationship between the hotelier and their guest is drastically different from the landlord tenant relationship. First, Mr. Lisk stated that hoteliers do not want to provide permanent residence. Mr. Lisk explained that in northern Virginia there are a lot of "mainline" hotels that cater to guests seeking daily, weekly and monthly stays. While some of these guests know the length of their stay upon check-in, often times they do not. Second, while apartments are usually rented on a flat rate per month, hotel rates differ month to month and day to day. Third, hotel guest have option of extending their stay and hoteliers are generally required to allow them to stay. And most hoteliers have to deal with a larger number of customers than landlords do, resulting in more transactions. This is problematic considering it is not economical for hoteliers to conduct background checks on their guests-- especially considering hoteliers are often uncertain of the length of an individual's extended stay. In order to protect themselves, hoteliers providing extended stay options will likely be forced to do background checks and require security deposits. Additionally, there is a sales tax on renting hotel rooms and not on leasing apartments. Mr. Lisk believes that hoteliers are held to a higher standard regarding the safety of guests, as is indicated by the need for health permits, annual permit fees, and annual inspections. Mr. Lisk noted that there are no similar requirements for landlords. According to 12 BAC 5-31, hoteliers must provide sheets and towels for hotel guests; but necessary for landlords. He stated that hoteliers are prohibited from evicting guests and are required to provide services whether or not the guest pays. In order to evict a hotel guest, the hoteliers are required to seek the courts permission. In general, the customer-client relationship between a hotelier and a hotel guest is inconsistent with the landlord tenant relationship. He suggested that the workgroup look at the definition of a dwelling unit and perhaps amend it to

distinguish between temporary guests who have permanent housing elsewhere and those are using hotels or another dwelling as transient housing and do not have housing elsewhere. Mr. Lisk suggested that this would be a logical solution so that hoteliers were not burdened and people could use hotels as their residence when circumstances deem it necessary.

- **Mr. R. L. Dunn, *Virginia Apartment and Management Association***; identified himself as a community volunteer, a graduate of Old Dominion University, a landlord for several single family homes, and an owner of several older hotels that are used as transient housing. Mr. Dunn stated that he provides housing for a population who would otherwise be forced to live in their cars or on the streets because of a lack of funds for a security deposit, bad credit, or various other reasons. Mr. Dunn estimated that of his tenants and extended stay guests, 84% of them are nice, good, hardworking people in need of a helping hand. In order to help these people build credit and move them out of the hotels and into a single family apartment, Mr. Dunn stated that he requires guests to live in one of his hotels for an extended stay of six months. During this time, Mr. Dunn stated that he reminds his guests to save their money so that they can build their credit, allowing him the security to move them into a single family apartment or home and become a tenant.
 - **Mr. Dunn** stated that in order to evict a guest of his extended stay hotels, he has to go through the court system which takes about 45 days. As a result, Mr. Dunn explained, this process causes him to lose a lot of money because there is no security deposit. Mr. Dunn stated that recently he has started to require \$20 security deposit which increases by \$20 each month that the person continues to live in his facility. Mr. Dunn explained that by the end of six months, he will have about \$600 dollars from the guest as a security deposit
 - **Mr. Dunn** expressed that his main concern about transforming his role as an hotelier for his extended stay residence is that he would need to collect more substantial security deposits in the outset of his dealing with extended stay guests and take on the cost of conducting credit and background checks. Mr. Dunn explained that because many of his extended stay guests do not have money for a security deposit or good credit, these people would likely become homeless.
- **Del. Marshall** asked Mr. Dunn if he bills weekly and whether he accepts check or cash.
 - **Mr. Dunn** replied that he accepts checks, credit, or cash. Mr. Dunn stated that he charges \$150 per week for a room.
- **Del. Marshall** asked Mr. Dunn to describe the residents that live at his facility and how they find his facilities.
 - **Mr. Dunn** explained that his residents range from 18 to 81 years of age and stated that they are a diverse group of people. Mr. Dunn added that his hotels are located in Colonial Heights and in Chesterfield County. Mr. Dunn explained that residents generally see the sign for his housing on Route 1, come to his facility, fill out a small application, and can start living there that same day.

- **Ms. Kelly King Horne, *Executive Director of Homeward***; asked whether Mr. Dunn's residents are mostly single people, families, or both. Mr. Dunn responded that some of his residents are single people, but that most are families with three or more people living in a one bedroom hotel room. Mr. Dunn stated that after six months, many of these families build up enough credit for him to move them into a two bedroom single family home-- a reality he believes they would not have reached but for his services.
- **Mr. T. K. Somanath, *President and CEO, Better Housing Coalition***, asked whether there is affordable housing in the areas in which Mr. Dunn operates, if people are coming to Mr. Dunn's facilities as a last resort.
 - **Mr. Dunn** responded that the population he serves does not have money for security deposits on other housing or security deposits for utilities. Mr. Dunn explained that money for rent is the only money a lot of his residents have, so there are no other options for them.
- **Mr. Somanath** asked if there is a resistance in the area towards affordable housing.
 - **Mr. Dunn** responded that as a result of the cost of proffers, which he estimates to be around \$20,000 to \$30,000, it is difficult to build anything in the area. Mr. Dunn stated that he builds single family homes that he is able to rent out.
- **Mr. Somanath** reiterated the point that Mr. Dunn is serving a population that has no voice.
 - **Mr. Dunn** agreed, stating that he includes utilities and cable television in the cost of rent so that his residents can feel comfortable.
 - **Mr. R. Schaefer Oglesby, *VAR***; asked whether Mr. Dunn furnished his residents with sheets or towels. Mr. Dunn replied that he did not.
- **Mr. Somanath** asked whether Mr. Dunn has many residents who are immigrants.
 - **Mr. Dunn** responded that he serves a very small immigrant population; he estimates that immigrants represent 10-15% of his residents. Mr. Dunn explained that the population at his facilities goes in waves-- sometimes there are many immigrants and sometime there are almost none.
- **Mr. Somanath** explained that he emigrated from India and lived in a hotel for \$3 per night for two or three months while he was going to job interviews and trying to make a life in the United States. Mr. Somanath commended Mr. Dunn for serving a community in need.
- **Mr. Ron Clements, *Virginia Code Officials Association***; stated that there are several zoning issues regarding hotels and motels versus apartments. Mr. Clements explained that a person living in a single place for 30 days or less is using the premises as "transient housing" according to the Code of Virginia. These generally include hotels and motels. Mr. Clements continued, by stating that a person living in a single place for more than 30 days is using the premises as "non-transient boarding." These generally include apartments and houses. Mr. Clements explained that there are some similarities between these two types of housing in the Building Code. For instance, both require sprinkler systems,

accessibility to units, fire alarms, and various other safety features. However, there are minor distinctions between the two types of housing regarding the specifics of these requirements. According to Mr. Clements, where a person seeks to change a hotel or motel into a non-transient housing unit, there are some changes that inevitably will be needed, such as updating or installing a special sprinkler system and fire alarms with different wattage.

- **Ms. King Horne** asked whether a Courtyard Marriot would be required to change anything in order to become a non-transient housing provider.
- **Mr. Clements** stated that Courtyard Marriotts and other similar hotels and motels were designed to accommodate all codes and thus, are unlikely to need alteration if utilized as extended stay facilities.
- **Ms. Deb W. Reed, *Educational Specialist and McKinney-Vento Liaison Henrico County Public Schools***; identified herself as the homeless education liaison. Ms. Reed explained that under the McKinney-Vento Federal mandate, all school systems are required to provide stability in school where children do not have stability in housing. According to Ms. Reed, homelessness is a substantial problem facing the youth of Virginia. Ms. Reed stated that over the last seven years, shelter housing has dramatically diminished and two year stays were lowered to one year. Further, Ms. Reed stated, there is a shortage of low priced homes and no dependable public transportation. She stated that last year, 16,420 people in 132 localities identified themselves as homeless; 2,200 of those people were living in hotels. Ms. Reed stated that most of the people living in these hotels are single parents with children that are school aged or younger. Ms. Reed explained that there are often three to seven people living in one room without a kitchen or other amenities.
 - **Ms. Reed** explained that as a result of this new reality, schools are trying to make sure that these students have access to education regardless of their documentation of residency. Traditionally, Ms. Reed explained, a person has to live in a locality in order to attend school there. However, Ms. Reed stated, where a child has lost housing and is forced into a circumstance where they are living on the street, with friends, in a shelter, or in hotels, school systems are required to provide these children with unfunded transportation to their former school where practicable. Ms. Reed explained that the liaisons for the various school districts make a decision to either transport the displaced child to his former school or to have the child attend a new school closer to his current residence based on the best interest of the child. In order to determine what is best for the child, Ms. Reed stated that liaisons consider the length of the commute (time and mileage), the age of the child, time left in the school year, and various other factors.
- **Del. Marshall** clarified that the school system pays for a child who is living outside of the school district to be transported to schools within the school district.
 - **Ms. Reed** stated that Del. Marshall was correct. Ms. Reed added that where a child loses housing, the school district is required to provide transportation where it is practicable and in the best interest of the child. However, she explained that a family who moves a child on their own

volition has not "lost" housing and are ineligible for this service. Ms. Reed stated that Henrico has transported a child from as far away as 40 miles. Ms. Reed stated that where she decides against transporting the child, she must document specific reasons why and must reevaluate each student every year.

- **Mr. Somanath** thanked Ms. Reed for sharing her knowledge of this problem. Mr. Somanath stated that this is a serious problem if it is affecting a wealthy area like Henrico. He continued, by stating that it is an uphill struggle to get zoning and proffers approved for low income housing. He added that unless the counties change their outlook on low income housing, it seems this problem will persist.
- **Mr. Dicks** stated that he thinks the workgroup should distinguish between hotels like Courtyard Marriott and more traditional non-transient housing hotels that tend to be lower end. He suggested that they remove the taxation element from the provision and organize a draft bill to distinguish between the different classes of hotels and motels. Mr. Dicks added that if all extended stay motel owners were like Mr. Dunn there would be no problem.
 - **Mr. Somanath** replied that if they change the laws to differentiate between the rich and poor hotels, the workgroup does not solve the bigger problem of transportation and land-use regarding low income housing.
 - **Ms. King Horne** added that there is more than one definition of homeless. Ms. Kelly stated that she agrees that there is a need to address the general problems with housing, but that in the meantime it is important for the workgroup to solve this problem for people who cannot afford traditional housing and low-income housing projects are not being built.
 - **Mr. Dicks** stated that the workgroup should look to solve the broader housing problems by figuring out how to work on the legislation the workgroup was given regarding homelessness and low income housing. Mr. Dicks stated that he would like to discuss the goals of the broader problems with housing at the next workgroup meeting.
- **Mr. Brian Gordon, Apartment and Office Building Association of Metro Washington**; added that he is interested in working on this and feels that the workgroup's critical role is ensuring that hoteliers are not forced to change their business model, while still allowing hoteliers to provide transient and non-transient housing for persons in need. Mr. Gordon stated that he does not want to make this type of housing impractical.
- **Mr. Dicks** stated, on behalf of Del. Marshall, that the Chair's intention is to send out a draft for the bill.
- **Ms. Marra** stated that she thinks differentiating between the different classes of hotels and motels regarding extended stay would help to balance the protections afforded to these different businesses.

III. Public Comment and adjourn

- **Mr. Chip Dicks, as temporary replacement for Danny Marshall as Chair**, adjourned the meeting at 11:07a.m.